



**State of California
Board of Prison Terms
Foreign Prisoner Transfer
Treaty Program**

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Foreign Prisoner Transfer Treaty Program

This brochure will familiarize you with the Foreign Prisoner Transfer Treaty Program. The main purpose of this program is to promote the prisoner's social rehabilitation. Prisoner transfer assumes that social rehabilitation is more likely to occur in the prisoner's home country, closer to family and within his/her own culture.

Government Code Section 12012.1 gives the Chairperson of the Board of Prison Terms, as the Governor's designee, the authority to approve or disapprove foreign prisoner transfers.

Listed below are some factors reviewed when deciding whether a prisoner should be considered for transfer:

- Acceptance of responsibility.
- Criminal history.
- Seriousness of offense.
- Criminal ties to the sending and receiving countries.
- Family and other social ties to the sending and receiving countries.
- Humanitarian concerns.
- Law enforcement concerns.
- Likelihood of return to the United States.
- Previous prisoner transfer.

The United States Government has entered into treaties with many foreign nations that allow the

transfer of foreign prisoners to their home countries.

In order for a transfer to occur, the prisoner, the State of California, the United States Government and the foreign nation must agree to the transfer. All of the treaties have certain common provisions:

1. The prisoner must be convicted and sentenced.
2. The prisoner must have some minimum period of time to serve of his or her sentence, usually six months, two treaties require one year.
3. The judgment and conviction must be final. This means there must be no pending court proceeding by way of either a direct appeal or, under most treaties, a collateral attack against either the judgment or the sentence.
4. The crime for which the prisoner was convicted in the United States must be an offense under the laws of the receiving country had it been committed there.
5. The sentence cannot be a capital sentence.
6. The prisoner cannot be convicted solely of a military or political offense.

Some treaties have restrictions on indeterminate sentences and how long a prisoner has lived in the United States prior to committing the offense that sent him or her to prison.

The Process

The process begins when you request a CDC Form 830 from your counselor. You must fill out the form, sign it, and return it to your counselor who will forward it to the Board of Prison Terms (BPT). You should also contact the Consulate of your home country since they may have some requirements to validate your citizenship and will be contacting the BPT. When the BPT receives the request, information is collected from your central file. Information is also requested from your home country on the disposition of your sentence in that foreign nation. Your case is screened by the BPT to confirm that treaty criteria are met. A report is generated to provide the Chairperson with

information to make a decision for approval or disapproval of the transfer. The decision to approve a transfer request is discretionary and there are cases in which a transfer is not appropriate. You are informed of this decision in a letter. If you are approved, a transfer package is sent to the United States Justice Department, International Prisoner Transfer Unit (IPTU) to review for approval or disapproval. If the IPTU approves the transfer, the package is sent to the foreign nation for review and approval or disapproval.

If the Chairperson of the Board of Prison Terms, the United States Department of Justice, and the foreign nation all approve the transfer, you will be scheduled for an Immigration and Customs Enforcement Removal Order and a Consent Verification Hearing. Male inmates will be transferred to R. J. Donovan Prison for this process. At the Consent Verification Hearing, a Federal Magistrate will validate that you consent to the transfer.

After the Consent Verification Hearing, you will be transferred to Federal custody for a transfer to the foreign nation. The Federal Bureau of Prisons has restrictions on personal property, so disposition of your personal property will have to be accomplished before your transfer to Federal custody, or to R.J. Donovan Prison (male inmates only).

The entire process from application to transfer requires several levels of review and may take six months to a year to complete. Transfer to some foreign nations may take longer due to the lengthy approval process in those foreign nations.

You may be a suitable candidate for a transfer to your country of citizenship. The first step is to contact your counselor and complete a CDC Form 830.